

# Notice of Allowability

Application No.

09/764,293

Examiner

Pierre E. Elisca

Applicant(s)

SCHULL, JONATHAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/2/2007.
2. ☒ The allowed claim(s) is/are 58,62-81,128,132-144,146-150 and 154-194.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.


**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
PIERRE EDDY ELISCA  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600

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## REASONS FOR ALLOWANCE

1. This application is a continuation of U.S. application No. 08/631,411 filed on 04/12/1996 now U.S Patent 6,266,654 See MPEP 201.07. In accordance with MPEP 609.02 A.2 and MPEP 2001.06 (b) (last paragraph), the Examiner has reviewed and considered the prior art cited in the Parent Application. Also in accordance with MPEP 2001.06 (b) (last paragraph), all documents cited or considered 'of record' in the Parent Application are now considered cited or 'of record' in this application. Additionally, Applicant(s) are reminded that a listing of the information cited or 'of record' in the Patent Application need not be resubmitted in this application unless Applicants desire the information to be printed on a patent issuing from this application. See MPEP 609.02 A. 2. Finally, Applicants are reminded that the prosecution history of the Patent Application is relevant in this application.

2. This is an Examiner's statement of reasons for allowance. The closest prior art Jones et al (U.S. Pat. No. 5,363,483) discloses a method/system for generating a variation of a digital information instance.

JP 2002041313 A Kusanagi, Koichi discloses a method for manufacturing embedded software capable of changing a functional version without a change of recording medium.

However, neither Jones nor Kusanagi singularly or in combination discloses the recited feature:

As per claims 58, 128 and 150 " variable portion of data including at least the functional parameter setting, the second instance of digital information including the functional

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data and the functional parameter setting, the producing being in response to a copying or purchase event for the digital information, changing the functional parameter setting in the second digital information instance, the changing being determined using parameter setting change data and being linked to the copying or purchase event”.

As per claim 174 “ passing an instance of digital information to a user, the instance having a stable portion of functional data used in performing a computerized function, at least one aspect of performing the function being affected by a functional parameter setting, and a variable portion of data including at least the functional parameter setting, enabling purchase of the instance by the user, and changing the functional parameter setting, the changing being determined using parameter setting change data and being in response to the purchase”.

### ***Conclusion***

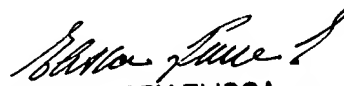
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00. Patents and hoteling.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 15, 2007

  
PIERRE EDDY ELISCA  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600